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SUPREME COURT, U. S.

No. 466

IN THE

Supreme Court of the United States

OCTOBER TERM, 1967

HUGH MILLER MERCER, *et al.*,
Appellants,

against

ARTHUR I. HEMMINGS, *et. al.*,
Appellees.

HERMAN W. BEVIS, *et. al.*,
Appellants,

against

MARK W. EASTLAND, *et. al.*,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF FLORIDA

MOTION OF GENERAL FOODS CORPORATION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE AND BRIEF AMICUS CURIAE

ROBERT MACCRATE,
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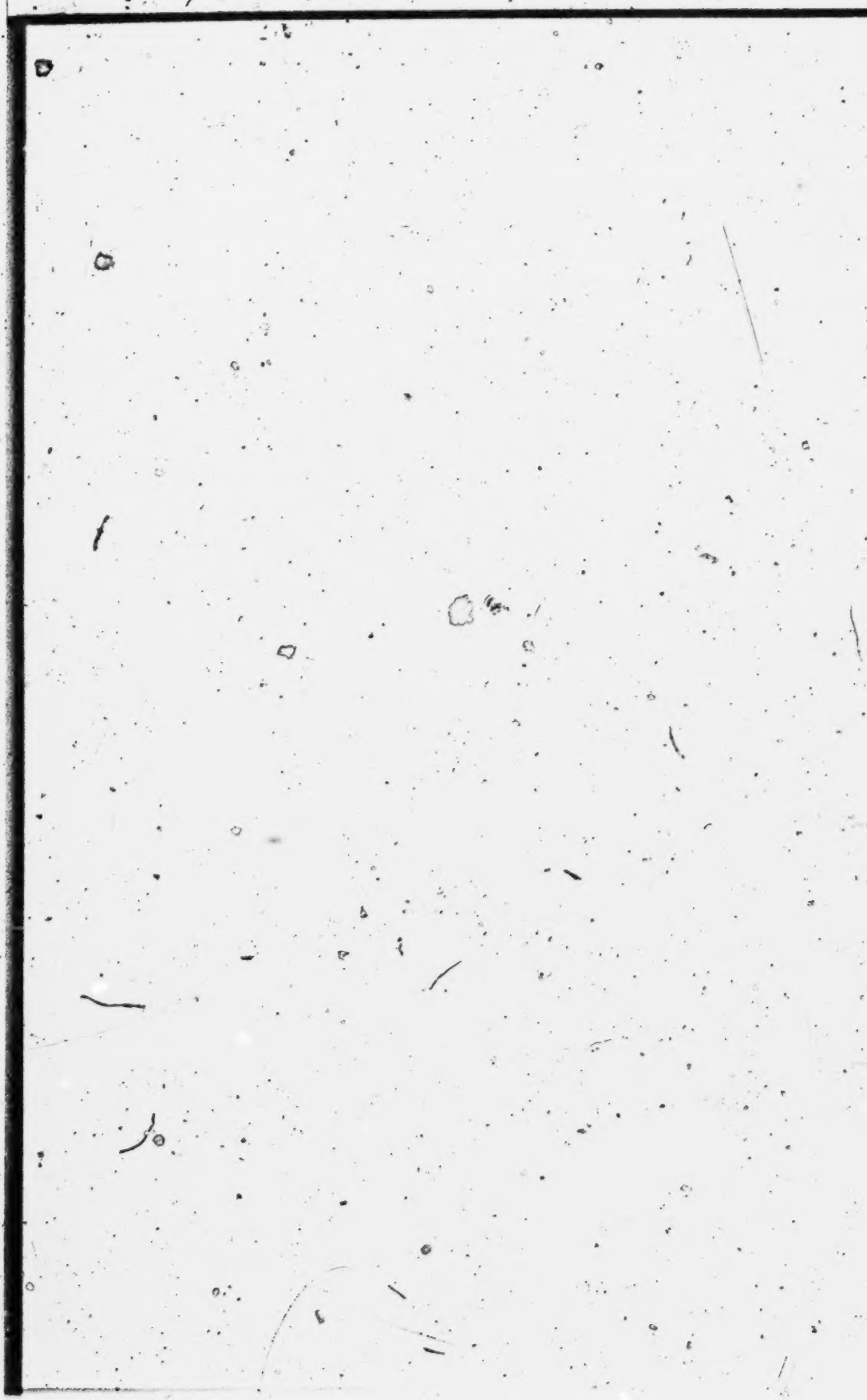
MICHAEL M. MANEY,
SULLIVAN & CROMWELL,
Of Counsel.

November 20, 1967.



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ON APPEAL FROM THE SUPREME COURT OF FLORIDA

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE

General Foods Corporation hereby respectfully moves for leave to file a brief *amicus curiae* in this case. The consent of the attorneys for appellants has been obtained. The consent of the attorneys for appellees has been refused.

The interest of General Foods Corporation in this case arises from the fact that it is a client of Price Waterhouse & Co., which performs auditing functions for General Foods Corporation on a national basis. General Foods Corporation has substantial operations in the State of Florida, including a coffee processing plant in Jackson-

ville, and a plant in Winterhaven for the processing of frozen food products. In addition, General Foods maintains distribution facilities and sales offices in Florida. These Florida operations are included in the accounting services performed by Price Waterhouse & Co. for General Foods Corporation.

This motion is made by General Foods Corporation in order to apprise this Court of the potential adverse effect which the decisions of the Florida courts in these appeals may have upon clients of Price Waterhouse and upon their investors and creditors.

November 20, 1967.

Respectfully submitted,

ROBERT MACCRATE,
Counsel for General Foods Corporation, Amicus Curiae,
48 Wall Street,
New York, New York 10005

IN THE

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Appellees.

ON APPEAL FROM THE SUPREME COURT OF FLORIDA

BRIEF OF GENERAL FOODS CORPORATION, AMICUS CURIAE

General Foods Corporation hereby requests this Court to grant rehearing of its decision of October 23, 1967, granting appellees' motion to dismiss and dismissing the appeal for want of a substantial Federal question, and to note probable jurisdiction and set the cases for oral argument.

ARGUMENT

General Foods Corporation is one of the world's leading manufacturers of packaged food and grocery products. It manufactures and markets a broad range of products under various name brands, including Maxwell House and Yuban coffee and Sanka decaffeinated coffee, Jell-O des-

serts, Kool-Aid, Twist and Tang beverages, Post Toasties, Raisin Bran, Grape-Nuts, 40% Bran Flakes and other cereals, frozen foods under the Birds Eye label, pet foods under the Gaines label, and sundry other products including Log Cabin syrups, Minute Rice, Good Seasons Salad Dressings, and Baker's, Swans Down and Calumet brands baking ingredients. For the last few years, General Foods has had annual consolidated net sales in excess of $1.5 billion.

Approximately 3% of the United States sales by General Foods are attributable to the State of Florida, where General Foods maintains a distribution center and sales offices. In addition, its Maxwell House Division has a coffee processing plant in Florida, and its Birds Eye Division has a plant in Florida for processing frozen Florida orange juice and other frozen foods products.

This Company has for a number of years retained the firm of Price Waterhouse & Co. as its independent auditors. This selection has been influenced not only by the Company's high regard for that firm's competence and professional standards, but also because of that firm's ability to perform auditing and accounting functions wherever General Foods Corporation is operating. In addition, members of the investment community to which General Foods Corporation looks for capital have expressed confidence in General Foods financial statements and reports certified by the recognized national firm of Price Waterhouse & Co.

The American Institute of Certified Public Accountants has sought to establish national standards to govern the practice of public accounting. Agencies of the Federal Government have supported these efforts to establish national standards as important to the public interest, and each State may police the standards imposed by that State upon licensed auditors and accountants; but the States' regulation of auditors and accountants should not unreasonably interfere with the conduct of commerce among the States.

By its decisions in these cases, the Florida Supreme Court has ruled that General Foods Corporation may not retain the accountants of its choice to perform accounting services for this Company in the State of Florida. If those decisions are left standing, other States may follow Florida's lead; that may ultimately result in a situation where a national company, such as General Foods Corporation, will be required to retain separate accountants in each State in which it does business, none of whom would be in a position to express an unqualified opinion concerning the overall financial condition and results of operations for General Foods Corporation.

A State should not be permitted unreasonably to withhold licenses from fully qualified auditors and accountants. A national corporation should be free to choose any qualified firm of accountants to perform auditing and accounting functions for that company, and the Respondents in these cases have offered no logical reason why that choice should be denied to companies which operate in Florida.

CONCLUSION

For the foregoing reasons, General Foods Corporation respectfully urges this Court to grant rehearing, to note probable jurisdiction, and to set these cases for oral argument.

November 20, 1967.

Respectfully submitted,

ROBERT MACCRATE,
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48 Wall Street,
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MICHAEL M. MANEY,
SULLIVAN & CROMWELL,
Of Counsel.